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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 1924 OF 2016

Imran Ishiyak Ahmed Shaikh @ Immo Topo .. Applicant
Vs.
The State of Maharashtra .. Respondent

**WITH
CRIMINAL APPLICATION NO. 975 OF 2016
IN
ANTICIPATORY BAIL APPLICATION NO. 1924 OF 2016**

Asma C. Khan .. Intervener

In the matter between

Imran Ishiyak Ahmed Shaikh @ Immo Topo .. Applicant
Vs.
The State of Maharashtra .. Respondent

Mr. Vijay Chandrakant Desai for the Applicant.
Mr. Samyak K. Gimekar for the Intervener.
Ms. Veera Shinde, APP for the Respondent-State.

CORAM : A.S. GADKARI, J.
DATE : 4th APRIL, 2017.

P. C. :

1. This is an application for pre-arrest bail in C. R. No. 54 of 2016 registered with Shivaji Nagar Police Station, Mumbai dated 30.01.2016 under Sections 307, 323, 506(2) read with 34 of the Indian Penal Code.
2. The First Information Report is lodged by Mr. Wasim Qureshi, a friend of victim Sakib Khan. It is the prosecution case that the injured did

not give his motor cycle to accused No.1 Shoukat Chuha and the other co-accused on 31.12.2015 and because of the said reason the accused persons assaulted the victim with sword and chopper. After the lodgment of the FIR, the police have till date arrested four accused persons and after the completion of the investigation submitted charge-sheet.

3. I have perused the charge-sheet annexed to with the application. The record reveals that the first informant Mr. Wasim Qureshi and victim, namely, Mr. Sakib Khan in their first statement to the police dated 30.01.2016 have not mentioned the name of the applicant neither any role has been attributed to him. The first informant Mr. Wasim Qureshi in his supplementary statement dated 29.02.2016 which is recorded after a gap of about 29 days for the first time has stated that during the said assault, the applicant threw a stone at the injured Sakib which hit on his waist. There is one more statement of witness, namely, Shri Mohsin Shaikh, recorded on 10.03.2016 after a gap of 41 days, who has mentioned about the presence of the applicant at the scene of offence on the particular day. Apart from the aforesaid two statements which are recorded after a gap of 29 and 41 days respectively, there is no other evidence available on record attributing any role to the applicant in the present crime. Even in the two statements of the witnesses, there is material contradiction with respect to the role played by the applicant. Prima facie, it appears that the presence of the applicant at the scene of offence as mentioned by the said two witnesses is an afterthought.

4. Learned counsel for the original complainant submitted that the applicant is threatening the family members of the victim, therefore, stringent conditions may be imposed upon the applicant.

5. In view of the above, the applicant has made out a case for their release on pre-arrest bail.

6. Hence the following order:

(i) In the event of arrest of the applicant in C. R. No. 54 of 2016 registered with Shivaji Nagar Police Station, Mumbai, the applicant shall be released on bail on his furnishing P. R. bond of Rs.25000/- with one or two solvent local sureties.

(ii) During the pendency of the trial, the applicant shall attend the Shivaji Nagar Police Station, Mumbai once in a fortnight i.e. on Monday between 10.00 a.m. to 2.00 p.m. and mark his presence.

(iii) The applicant shall not tamper with the evidence and/or influence the prosecution witnesses.

(iv) The application is allowed in the aforesaid terms.

(v) In view of the order passed in Anticipatory Bail Application No 1924 of 2016, Criminal Application No. 975 of 2016 does not survive and stands disposed of

[A. S. GADKARI, J.]